

REMARKS

Claims 1, 5, 11-19, 22-26, 29, 30, 32-42, and 44-48 are pending in the present application.

At the outset, Applicants wish to thank Examiner Gembeh for the recognition that Claims 29, 33, and 34 are allowed (page 2, line 13 of the Office Action mailed August 22, 2006). Applicants also would like to thank Examiner Gembeh for the helpful and courteous discussion with their undersigned representative on October 30, 2006. During this discussion the amendments set forth herein were discussed. The content of this discussion is reflected in and expanded upon in the following remarks. Reconsideration of the outstanding rejections is requested.

The rejection of Claims 1, 3-4, 6-8, 10, and 12-15 under 35 U.S.C. §103(a) over Pettit or Cushman et al in view of Fex et al is respectfully traversed.

The cited prior art are silent with respect to the specifically identified tubulin polymerization-inhibitory active substances having anti-tumor activity - (Z)-N-[2-methoxy-5-[2-(3,4,5-trimethoxyphenyl)vinyl]phenyl]-L-serinamide or a salt thereof. Claim 1 defines the tubulin polymerization-inhibitory active substance having anti-tumor activity as (Z)-N-[2-methoxy-5-[2-(3,4,5-trimethoxyphenyl)vinyl]phenyl]-L-serinamide or a salt thereof. This same limitation appears in Claims 16 and 22. Accordingly, Applicants submit that Claims 1, 5, and 12-15 are not obvious in view of the disclosures of Pettit or Cushman et al in view of Fex et al.

Applicants request withdrawal of this ground of rejection.

The rejection of Claims 1 and 3-15 under 35 U.S.C. §103(a) over Hori et al in view of Fex et al is obviated by amendment.

Hori et al is cited as disclosing (Z)-N-[2-methoxy-5-[2-(3,4,5-trimethoxyphenyl)vinyl]phenyl]-L-serinamide as an anti-cancer agent. At no point do Hori et al disclose or suggest an anti-inflammatory active substance listed in pending Claim 1. Fex et al is cited as disclosing certain anti-inflammatory active substance, in particular steroidal compounds. However, Applicants submit that neither Hori et al nor Fex et al disclose or suggest the specifically identified anti-inflammatory active substances listed in presently pending Claim 1. Further, neither Hori et al nor Fex et al provide motivation to modify their disclosures to arrive at one of the claimed anti-inflammatory active substances listed in presently pending Claim 1.

Accordingly, Applicants submit that Claims 1, 5, and 12-15 are not obvious in view of the disclosure of Hori et al in view of Fex et al.

Applicants request withdrawal of this ground of rejection.

The rejections of: (a) Claims 30, 32, 35, 36, 39-42, and 44-48 under 35 U.S.C. §112, first paragraph (enablement), and (b) Claims 30-32 and 35-49 under 35 U.S.C. §112, first paragraph (written description), are obviated in part by amendment and traversed in part.

With respect to the Examiner's enablement rejections, during the discussion with the undersigned, the Examiner indicated that this rejection is based largely on the fact that previously pending independent Claims 30, 39, and 44 were only defined functionally (i.e., "one or more tubulin polymerization-inhibitory active substance having anti-tumor activity") and used of the phrase "and derivatives thereof". To this end, Applicants have amended the Claims 30, 39, and 44 to recite the limitations of Claims 31, 43, and 49, respectively, while

deleting the phrase "and derivatives thereof. In view of this amendment, Applicants submit that the claimed invention is adequately described and enabled by the present specification and in accordance with 35 U.S.C. §112, first paragraph.

Withdrawal of these grounds of rejection is requested.

Finally, with respect to the non-elected method claims, Applicants remind the Examiner that MPEP §821.04 states:

...if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Accordingly, upon a finding of allowability of the elected product claims, Applicants respectfully request rejoinder of the withdrawn process claims (Claims 16-19 and 22-26) that depend therefrom.

Applicants submit that the present application is now in condition for allowance. Early notice to this effect is earnestly solicited.

Respectfully submitted,

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